JUDICIAL COUNCIL

OF BRITISH COLUMBIA

ANNUAL REPORT

2004, 2005 & 2006

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JUDICIAL COUNCIL

OF BRITISH COLUMBIA

ANNUAL REPORT

2004, 2005 & 2006

Judicial Council of British Columbia

The Honourable Wally Oppal
Attorney General
PO Box 9044 Stn Prov Govt
Victoria, BC V8W 9E2

Dear Mr. Attorney:

I present herewith the Annual Report of the Judicial Council of British Columbia for the years 2004, 2005 and 2006. The activities of the Judicial Council during this period include the review of 141 applications for appointment as provincial court judge, and 6 applications for appointment as judicial justice of the peace. Of those applications, the Council interviewed 83 applicants for the position of provincial court judge and 3 applicants for the position of judicial justice of the peace.

In previous Annual Reports of the Judicial Council, we have included summaries of all of the complaints received pursuant to section 11(2) of the *Provincial Court Act*. The Council has observed that it has no statutory role in the examination, investigation and response to those complaints unless an inquiry is ordered, and the Council is selected as the tribunal. Accordingly, the summary of the Court's responses to the 368 complaints received over the period of this Annual Report will be published in the Court's next Annual Report as a matter of accountability for the Chief Judge, who discharges the statutory power of preliminary examination and investigation (where required).

The Judicial Council has continued since its 2001 Report to fulfill its mandate of maintaining a high quality of justice in the Provincial Court of British Columbia, through the performance of its objects and functions under section 22 of the *Act*.

This report is published in keeping with the Court's tradition of accountability, transparency and public access to information. It will be posted on the Provincial Court website, http://www.provincialcourt.bc.ca/judicialcouncil/index.html. Additional copies may be obtained through the Office of the Chief Judge.

Sincerely,

The Honourable Hugh C. Stansfield
Chief Judge and Chair, Judicial Council of British Columbia

Table of Contents

1. Introduction 1

2. Meeting Schedule & Business Conducted 3

3. Appointment Process for Judges 5

4. Appointment Process for Judicial Justices of the Peace 12

5. Appointment Process for Court Services Justices of the Peace 15

6. Appointment Process for Judicial Case Managers 16

7. Judicial Education 16

8. Strategic Planning 19

9. Complaints 20

10. Public Access to the Judicial Council 20

Appendix

A Procedure Bylaw 21

1. Introduction

The Judicial Council of British Columbia is a statutory body created by the *Provincial Court Act*, R.S.B.C. 1996, Chap. 379. The stated object of the council is to "improve the quality of judicial service". The Council's functions include:

1. considering proposed Lieutenant Governor in Council appointments of judges, judicial justices of the peace and justices of the peace;
2. conducting inquiries respecting judges, judicial justices of the peace, and justices of the peace;
3. considering proposals for improving the judicial services of the Court;
4. continuing the education of judges and organizing conferences of judges;
5. preparing and revising, in consultation with the judges, a code of ethics for the judiciary; and
6. reporting to the Attorney General on the matters the Attorney General considers necessary.

The nine members of the Judicial Council prescribed by the *Act* are the chief judge as presiding member; an associate chief judge as alternate presiding member; the president of the Law Society of British Columbia or her/his designate; the president of the British Columbia Branch of the Canadian Bar Association or her/his designate; and, by appointment of the Lieutenant Governor in Council for a term of not longer than 3 years, a judge (who, by convention, is the President of the Provincial Court Judges Association); and 4 other persons (again, by convention, this has included, judicial justice of the peace, and at least 2 lay people).

The members of the Council for 2006, and the dates of their appointment to the Council, were as follows:

1. The Honourable Hugh C. Stansfield, Chief Judge and presiding chair, July 1, 2005.
2. The Honourable James Threlfall, Associate Chief Judge, alternate presiding member, July 1, 2005.
3. Ms. Diane I. Turner, nominee of the president of the Law Society of B.C., December 22, 2004.
4. Ms. Marguerite (Meg) E. Shaw, Q.C., Past President of the Canadian Bar Association, BC Branch, March 9, 2006.
5. The Honourable J. Gary Cohen, Past President of the B.C. Provincial Court Judges' Association, March 9, 2006.
6. Ms. Elizabeth (Betsy) Gibbons, December 18, 2002.
7. Mr. C.C. (Kip) Woodward, December 18, 2002.
8. Colleen Proctor, Judicial Justice of the Peace, December 2, 2004.
9. Mr. Art Vertlieb, Q.C., March 9, 2006.

The members of the Council for 2005, and the dates of their appointment to the Council, were as follows:

1. The Honourable Carol Baird Ellan, Chief Judge and presiding chair, January 1 to July 1, 2005; the Honourable Chief Judge Hugh Stansfield, July 1, 2005.
2. The Honourable A.J. Spence, Associate Chief Judge, alternate presiding member, January 1, 2005 – July 1, 2005; the Honourable James Threlfall, Associate Chief Judge, alternate presiding member, July 1, 2005.
3. Diane I. Turner, nominee of the president of the Law Society of B.C., December 22, 2004.
4. Mr. M.C. Woodward, Past President of the Canadian Bar Association, BC Branch, January 1, 2005.
5. The Honourable Judge R.R. Low, Past President of the B.C. Provincial Court Judges' Association, January 1, 2005.
6. Ms. Elizabeth (Betsy) Gibbons, December 18, 2002.
7. Mr. C.C. (Kip) Woodward, December 18, 2002.
8. Colleen Proctor, Judicial Justice of the Peace, December 2, 2004.
9. Mr. C.M. Considine, Q.C., December 18, 2002.

The members of the Council for 2004, and the dates of their appointment to the Council, were as follows:

1. The Honourable Carol Baird Ellan, Chief Judge and presiding chair, July 6, 2000.
2. The Honourable A.J. Spence, Associate Chief Judge, alternate presiding member, June 21, 2002.
3. Mr. P.J. Wilson, Q.C., nominee of the president of the Law Society of B.C., January 8, 1998.
4. Mr. R.C. Brun, Past President of the Canadian Bar Association, BC Branch, January 1, 2004.
5. The Honourable Judge B.M. Neal, Past President of the B.C. Provincial Court Judges' Association, January 1, 2004.
6. Ms. Elizabeth (Betsy) Gibbons, December 18, 2002.
7. Mr. C.C. (Kip) Woodward, December 18, 2002.
8. Phil Lim, Judicial Justice of the Peace, April 14, 1994.
9. Mr. C.M. Considine, Q.C., December 18, 2002.

2. Meeting Schedule & Business Conducted

The Judicial Council meets approximately once monthly in the Judicial Council Boardroom at the Office of the Chief Judge, Suite 602 - 700 West Georgia Street, Vancouver, BC V7Y 1E8. Meetings generally take a full day. At most meetings, the Council reviews applications for appointment of judges and justices of the peace, and conducts interviews of candidates.

The following was the meeting schedule for 2004 - 2006.

2004	2005	2006
January 23	January 21	March 24
February 20	February 18	April 21
March 19	March 18	May 12
April 23	April 22	July 21
June 18	May 20	August 18*
July 23	June 24	September 8
September 17	July 15	October 27
October 22	September 9	November 17
November 19	September 15*	December 1
December 17	October 14	December 22
	November 10*	
	November 25	
	December 16	

*Teleconference meetings

The number of applications for provincial court judge and justice of the peace reviewed and interviews held per year are shown in the charts on the following page. The figures reflect the Council's activities in the year, and therefore may include reviews, interviews or appointments of candidates who applied in a previous year.

In addition to interviews and the review of applications, the Council attends to ongoing business at its meetings. Topics in the past three years have included strategic planning, review of the judicial justice of the peace appointment process, and meeting with the chairs of the Judicial Advisory Committee of the Canadian Bar Association, BC Branch. Council also undertook a rigorous review of its criteria for appointment and its application forms. The emphasis was on ensuring that all referencing was as comprehensive as possible. The Council sought new ways of exploring applicant leadership and other involvement in bar organizations, continuing education, and in their communities.

JUDICIAL COUNCIL ACTIVITIES SUMMARY

Applicants for Appointment as Provincial Court Judge

	Applications Received			Pending Applications Reviewed			Applicants Approved for Interview			Applicants Interviewed			Applicants Approved for Appointment		
Year	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F
2004	54	36	18	53	36	17	34	23	11	31	23	8	10	10	0
2005	55	44	11	43	32	11	24	17	7	31	21	10	17	11	6
2006	67	42	25	45	33	12	21	16	5	21	16	5	9	6	3

Applicants for Appointment as Judicial Justice of the Peace

	2004	2005	2006
Applications received	2	4	0
Applicants interviewed	1	2	0
Applicants approved	1	1	0

Applicants for Appointment as Justice of the Peace

	2004	2005	2006
Applications reviewed	19	15	16
Applicants approved	18	15	14

3. Appointment Process for Judges

Pursuant to section 6 of the *Provincial Court Act*, judges are appointed by the Lieutenant Governor in Council, on the recommendation of the Judicial Council. The process of receiving a recommendation commences with an application to the Judicial Council. The application and approval process are described below.

When a vacancy arises, the chief judge, as chair of the Judicial Council, provides the Attorney General with the names of recommended candidates who are eligible to sit in the region or district where the appointment will be made.

Candidates may be recommended for appointment if approved by the Council in any of the three years preceding the recommendation. In 2004, 2005 and 2006, 22 recommended candidates received appointments.

Criteria

The following are the Judicial Council's stated criteria for applicants for appointment as a provincial court judge (in no particular order of relative priority):

1. At least ten years in the practice of law. Those with less legal practice experience are considered if they have a range of related experience.

2. Superb legal reputation, and a professional record review from the Law Society of British Columbia.

3. Demonstrated excellence in the applicant's area of law.

4. Experience in mediation or alternative dispute resolution.

5. Willingness and ability to learn and demonstrated commitment to continuing professional education.

6. Knowledge of current issues facing the courts, the judiciary, and the justice system, and awareness of the social context within which the court operates.

7. Ability to listen and communicate effectively.

8. Demonstrated personal characteristics such as decisiveness, evenness of temperament, fairness, open mindedness, common sense, and courage.

9. Demonstrated compassion for those coming before the court and an understanding of their circumstances.

10. Respect in the community.

11. Good health.

12. Passion and enthusiasm.

13. Balanced relationships with peers and subordinates.

14. Demonstrated adaptability and flexibility with respect to job changes.

15. Demonstrated balance of humility and confidence.

16. Appreciation of and experience with diversity.

17. Demonstrated dedication to public service.

18. Ability to cooperate and work with others.

19. Understanding of the role of the court in society and respective roles of the judiciary and other participants in the justice system.

20. Willingness to travel and to sit in all subject areas.

Application and Approval Process

Applications for judicial appointment are submitted on a Judicial Candidate Information Summary, which may be acquired through the Office of the Chief Judge at Suite 602 - 700 West Georgia Street, Vancouver, BC, or from the Provincial Court web site[1]. Applicants are provided with a package of materials containing an application form and information regarding the application and interview process, to ensure that applicants understand and consent to the extensive investigation that will be initiated with the making of an application.

The chief judge requests a Bar report on every new applicant, from the Advisory Committee to Judicial Council, a committee of the B.C. Branch of the Canadian Bar Association. Generally, updated reports are also sought in respect of re-applicants[2]. In preparing the Bar report, members of the CBA committee make thorough and discreet inquiries of members of the legal community regarding the applicant's reputation and suitability. The chief judge has recently reviewed with the CBA Committee the processes that are followed in preparing these reports, in part to ensure greater clarity in the positive and negative comments included in the reports, and in part to ascertain more information regarding the seniority at the Bar of the persons offering information, and the nature of their relationship with the candidate. The Council is indebted to the CBA Committee for the diligence it brings to this task.

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[1] http://www.provincialcourt.bc.ca/judicialofficers/judgesofthecourt/appointmentprocess/index.html

[2] Applicants may reapply three years after a prior application or interview.

The Judicial Council also requests a report on the applicant's standing from the Law Society, and comments from judges who are familiar with the applicant or who sit in the area in which the applicant practises.

Once the Bar report is received, generally within a few months of the application being made, the Council will review the application and make a decision as to whether to interview the applicant. Three members' votes in favour of an applicant are required, in order to grant an interview. Paramount to a very recent decision of the Council, candidates will now be advised if they are not approved for an interview.

Candidates who are approved for an interview are generally interviewed within a year following the date of their application, though in some cases the Bar report is delayed beyond that for one reason or another. The Council is currently up to date on interviews of applicants whose reports have been received and reviewed, i.e. it has no backlog of applicants approved for interview, once the Bar report is received.

Interviews are approximately 45 minutes to one hour. The members of the Council ask applicants a series of questions designed to assist in assessing whether they meet the criteria set out above, and to address any issues raised in the Bar, Law Society or judges' reports.

Following the interview, the members review the candidate's application, the Bar and Law Society reports, and comments received from judges, and decide by a vote whether to approve the candidate. Motions are either in favour of or against approval. In either case, two members' votes against approval defeat the candidate, regardless of the number of members present.

Applicants will now be notified as to whether they are approved for appointment. This is a significant recent change in Council policy. In prior years candidates were not notified. Applicants who are not approved for interview may reapply three years after the date they originally applied. Applicants who are interviewed may reapply three years after the date of their interview. Many applicants reapply at least once before receiving an appointment.

The Judicial Council made some earlier revisions to the approval process in 2000 and 2001. These are fully described in the 1999 - 2001 Annual Report[3]. The Council members felt that a "raising of the bar" was necessary, in recognition of the increasingly complex and varied nature of the Court's work, the accelerating workloads, and expanding administrative demands placed upon judges of the Court.

Given the Council's statutorily prescribed object of improving the quality of judicial service, the approval process must ensure that only exceptional applicants who are unquestionably capable of meeting these increasing demands be recommended for appointment.

The chart on the following page shows the history of applications, interviews and approvals over a six-year period, providing an indication of trends in application rates and a comparison of candidate approval rates before and after the change in the approval process. These figures reflect the Council's activities in the year specified, which include reviews and interviews of

[3] http://www.provincialcourt.bc.ca./downloads/pdf/judicialcouncilannualreport1999,2000,2001.pdf

applicants from the prior year, and are not reflective of the results of applications made in a particular year.

Applicants for Appointment as Provincial Court Judge
2001 - 2006

	Applications Received			Applications Reviewed			Applicants Approved for Interview			Applicants Interviewed			Applicants Approved		
Year	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F
2001	75	56	18	54	43	11	39	32	7	38	26	12	12	10	2
2002	44	27	17	56	39	17	34	25	9	37	28	9	17	15	2
2003	52	40	12	47	31	16	26	18	8	33	23	10	19	12	7
2004	54	36	18	53	36	17	34	23	11	31	23	8	10	10	0
2005	55	44	11	43	32	11	24	17	7	31	21	10	17	11	6
2006	67	42	25	45	33	12	21	16	5	21	16	5	9	6	3

The average number of applications received per year for the six years to 2006 was 58. Before the end of 2003, the three-year average number of applications was 57, while after, it was 59. The two years with the highest application rates were 2001, which represented an all-time high of 75 applications, and 2006, at 67. Both 2001 and 2006 followed Judicial Compensation Commission hearings which resulted in substantial increases in compensation.

The average number of applications reviewed for interview each year was 50, and of those, 30 per year, on average, or 60% of those reviewed, were approved for interview. The average number of applicants interviewed each year was 32, of which 14 were approved on average, resulting in a six-year average approval rate of about 44% of those interviewed, and about 28% of total reviewed applications.

The average number of judges appointed per year for the three years to 2006 was 7.3 or about 6.4% of total applicants, and about 26.3% of annual approvals.

Demographics

Throughout the years 2004, 2005, and 2006 Judicial Council had an average pool of 31 approved applicants. At the end of December 2006, this pool consisted of 22 candidates, of which 17 were men and 5 women. Seventeen of the approved candidates came from the Lower Mainland, and five from other parts of the province.

While each of the thirteen administrative districts of the Court was represented in the pool, and some of the applicants from populous areas were willing to relocate, many Court locations were

not represented by resident candidates, or candidates willing to relocate to that location. Candidates who were willing to relocate were more often male than female.

It is the policy of the Council to assess all applicants equally in relation to the appointment criteria, and not to allow the decision to interview or approve an applicant to be affected by a candidate's willingness to relocate to a hard to fill area. However, the application process may be expedited for a candidate in a hard to fill area with an upcoming vacancy.

The average age of applicants to the Court in the last three years was about 49, with an average of 18 years in practice.

The average ages of applicants are increasing over time, as shown in the following chart of applicants by age and gender in 2004, 2005 and 2006. The average age of male applicants rose to 52 in the period, and of females, to 46.

Applicants to Judicial Council by Age and Gender
2004 - 2006

Year	Total	Male	%	Average Age	Female	%	Average Age
2004	54	36	67%	51	18	33%	46
2005	55	44	80%	52	11	20%	47
2006	67	42	63%	53	25	37%	46

Female applicants have on average about 6 years less practice experience than male applicants, and proportionately more women applicants come from the private sector (see below). According to the 2005 Law Society Annual Report[4], the profession is 34% women; however, women continue to leave the profession in larger numbers than men. The percentage of women with over 10 years legal experience is not known. Assuming the attrition rate identified by the Law Society translates into a lower proportion of women in the over-10-year category, Judicial Council application and approval rates would seem to be a reasonable reflection of gender representation in the profession.

Of the twenty two applicants who were appointed in 2004, 2005, and 2006, 15 were male and 7 were female. The appointments were distributed as follows: eight were to the South Fraser District, five to the Cariboo Northeast, two to the Okanagan, five to Vancouver, one to the North Fraser, and one to Kamloops.

[4]http://www.lawsociety.bc.ca/publications_forms/report-annual/docs/2005/2005AnnualReport.pdf

Applicants by Gender and Area of Practice

	2004			2005			2006		
	Total	M	F	Total	M	F	Total	M	F
Private Practice	34	24	10	38	31	7	42	25	17
Crown Counsel	17	10	7	11	8	3	15	11	4
Other Areas of Practice	3	2	1	6	5	1	10	6	4

Diversity

Prior to 2001, the application form included an invitation to applicants to indicate on a voluntary basis whether they were members of diversity groups, including race and culture, disability and sexual orientation. The revised form contains a general question about the applicant's experience with cultural and ethnic diversity, which generally elicits applicants' own experience as members of diversity groups, and also better addresses item 16 of the Criteria for Appointment.

The breakdown of profile information received from applicants since 2001 is 15 members of self-reported diversity groups (out of 54 applicants) for 2004, 20 (out of 55 applicants) for 2005 and 12 (out of 67 applicants) in 2006. Most of those who self-reported as members of diversity groups were members of visible racial minorities. Applicants therefore consisted on average of about 27% members of self-reported diversity groups. The pool of approved applicants at the end of 2006 included 4 applicants from these groups, or 18%. It is difficult to say whether the number of applicants or approvals is reflective of the level of diversity among eligible applicants, as the Law Society does not include figures for diversity in the profession in its Annual Report.

Comparison of New and Renewed Applications

As stated above, applicants who are not appointed may reapply after three years, and often do so. The breakdown of applications based upon the number of new and renewed applicants is shown in the following chart. The figures shown in each column reflect the outcome of applications considered by Judicial Council in the year noted.

New and Renewed Applications by Year and Sector

	2001	2002	2003	2004	2005	2006
NEW APPLICATIONS:	53	33	37	31	34	45
Private Practice	37	23	27	18	22	27
Approved after an interview	4	6	7	3	8	7
Public Sector and Other Areas	16	10	10	13	12	18
Approved after an interview	4	4	6	3	3	0
RENEWED APPLICATIONS:	22	11	15	23	21	22
Private Practice	16	8	13	16	16	15
Approved after an interview	3	4	6	2	5	2
Public Sector and Other Areas	6	3	2	7	5	7
Approved after an interview	1	3	0	2	1	0

Note: Not all persons applying in 2005 and 2006 had been interviewed by year end, therefore these figures are incomplete.

Though it may be difficult to identify a trend in light of the low overall numbers, the annual number of new applicants would not appear to be increasing. The only exception is 2006 after judges received a substantial increase in salary from $161,250 to $198,000. Those from private practice are declining by percentage. New applications approved from private practice have fallen from 12 in 1998 to 7 in 2006.

4. Appointment Process for Judicial Justices of the Peace

Judicial justices of the peace are appointed by the Lieutenant Governor in Council on the recommendation of the Judicial Council, as are judges. They are assigned by the chief judge to preside over matters within their statutory jurisdiction (see below), which include traffic and other ticket offences, some municipal bylaw matters, payment hearings in Small Claims Court, and applications for bail and search warrants.

Formerly called sitting justices of the peace, judicial justices of the peace (JJPs) received a new designation by amendments to the *Provincial Court Act* in April 2001. These amendments occurred in response to two decisions of the B.C. Supreme Court. The first, (*Reference re Sitting Justices of the Peace*, 2000 B.C.S.C. 1470, Sigurdson J.) declared the former office of sitting justice of the peace to have insufficient safeguards of judicial independence to perform the judicial duties assigned to them. The second, (*R. v Do*, 2001 B.C.S.C. 1088, Hutchinson J.) held that justices of the peace employed by the Court Services Branch of the Ministry of the Attorney General, who at that time heard applications for search warrants, also did not have sufficient safeguards of judicial independence to perform their assigned duties.

In response to these decisions, the office of judicial justice of the peace (JJP) was created by the Legislature in April 2001. Amendments to the *Provincial Court Act* permitted the Lieutenant Governor in Council, on the recommendation of the Judicial Council, to designate a justice (defined in the *Act* as a justice of the peace) as a "judicial justice", and gave that office security of tenure and financial security. The newly created JJPs were assigned by the chief judge to hear traffic court cases (as sitting justices of the peace had done previously), and also to perform duties related to search warrants and bail, primarily by telecommunications. Those justices of the peace who were formerly sitting justices of the peace were designated by the legislation as judicial justices of the peace, and a number of new JJPs were also appointed.

Many of the Court's JJPs are now assigned to the Justice Centre in Burnaby, which provides 24-hour, 7-day-a-week access for police officers and Crown Counsel seeking search warrants, and for bail hearings of arrested persons. When at the Centre, JJPs issue federal and provincial search warrants by FAX and telecommunications, and preside over bail hearings, also by telecommunications. The 24-hour staffing of the Centre enables police forces throughout the province to obtain search warrants in a timely way, and facilitates the expeditious consideration of the custodial status of persons who have been arrested and detained.

On July 1, 2003, an amendment to the *Provincial Court Act* was passed which removed the jurisdiction of JJPs to hear certain matters, including applications under the *Canadian Charter of Rights and Freedoms*, and offences that may result in imprisonment.[5]

The Justice Centre and traffic division of the Court are supervised by the Office of the Chief Judge, and the appointment process for JJPs is similar to that for judges. The criteria for appointment are the same for both components of the office, i.e. the Justice Centre and traffic

[5] See *Provincial Court Act*, R.S.B.C. 1996, c. 379, section 2.1

sitting duties, and JJPs are appointed to perform both sets of duties. In 2006 after reviewing a report prepared for Chief Judge Stansfield by Associate Chief Judge Threlfall into the current state of the JJP division of the court, Council decided to review the minimum qualifications for new JJP applicants. Council set the new minimum qualifications as follows:

1. law degree
2. active membership in the Law Society of British Columbia in good standing
3. a minimum of 5 years of legal practice in British Columbia
4. demonstrated flexibility in approaching type and hours of work.

Council also recommended that new appointments should be for terms of not less than 5 years and not more than 10 years and that applicants should be able to work part time as JJPs, maintaining their practice of law.

The Judicial Council reviews applications, conducts interviews, and approves JJP candidates for appointment and the chief judge sends to the Attorney General the names of approved candidates recommended for appointment to available vacancies, in a process similar to that for judges outlined above. Applications for JJP positions may be submitted at any time or may be solicited by a recruitment campaign for a specific vacancy.

When received, applications are initially reviewed by the Judicial Council or a Select Committee of the Council, to decide whether the applicant will be interviewed. Candidates are not advised of that decision except through receipt of an invitation to attend for interview. Candidates who are interviewed are not generally advised whether they have been approved as eligible for appointment.

Since 2001, the Council has maintained a pool of approved applicants similar to the pool for judges. Approvals remain valid for three years. Applicants are eligible to reapply after 3 years from the later of the date of their previous application or the date of their interview, if any.

It is anticipated that in 2007 the Council will begin considering applications by lawyers for appointment as judicial justices of the peace on a part-time, per diem basis.

Appointment Criteria

Until the 2006 creation of new standards for appointment, and during most of the period covered by this Annual Report, the appointment criteria for judicial justices of the peace were as follows (in no particular order of relative priority):

1. 10 years in the BC justice system, or commensurate experience.

2. must hold a justice of the peace commission or be eligible for appointment as a justice of the peace in British Columbia.

3. reputation within the BC justice system, including references, from the Bar, Judiciary, and other relevant bodies.

4. ability to listen and communicate effectively.

5. personal characteristics, such as decisiveness, evenness of temperament, fairness, open-mindedness, and common sense.

6. demonstrated dedication to public service.

7. understanding the role of the court in society and respective roles of the judiciary and other participants in the justice system.

8. willingness to travel and perform all assigned duties including shift work.

9. general knowledge of and experience in the law and provincial court procedures and subject matters.

10. compassion for those coming before the court and an understanding of their circumstances.

11. adaptability and flexibility with respect to job changes.

12. respect in the community.

13. humility.

14. balanced relationships with peers and subordinates.

15. ability to cooperate and work with others.

16. appreciation of and experience with diversity.

17. willingness to learn and demonstrated commitment to continuing professional education and development.

18. knowledge of and sensitivity to current issues facing the courts, the judiciary and the justice system.

19. good health.

20. passion and enthusiasm.

21. experience in mediation or alternative dispute resolution.

Applications for appointment as a judicial justice of the peace are submitted on a Judicial Justice of the Peace Candidate Information Summary. A sample form may be found at www.provincialcourt.bc.ca/judicialofficers/justicesofthepeace/appointmentprocess/index.html.

5. Appointment Process for Court Services Justices of the Peace

Court Services justices of the peace work in Court registries throughout BC. Besides their justice of the peace duties, which are assigned by the chief judge, they hold various administrative positions in the Court Services Branch of the Ministry of the Attorney General including court manager, administrator and court clerk.

Court Services JPs perform such functions as:

1. swearing Informations and arranging for the process to bring accused persons to court to answer new charges;
2. attending to the execution of court orders made by judges and JJPs;
3. determining whether persons qualify to be a "surety" or to guarantee an accused's bail; and
4. generally performing other duties required of a "justice" in the Criminal Code, but being primarily administrative in nature, and not requiring the exercise of material judicial discretion.

The applicable process for appointment is as follows:

a. A court manager in the relevant location will contact the Office of the Chief Judge (in writing) when they need a justice of the peace appointment, for instance, to fill a vacant position or to accommodate an increase in workload.

b. In the case of a vacant position, the position is usually posted as a government posting, and a competition is held. The successful candidate will submit an application to Judicial Council for appointment as a justice of the peace.

c. When the application is received, it is reviewed by the Office of the Chief Judge staff to ensure it is properly completed and to identify any potential problems with the candidate such as conflicts of interest. A police record check is also conducted.

d. The application is then forwarded to the administrative judge in the relevant district with a request that he or she confirm the need for the appointment and interview the candidate according to the following guidelines:

(1) The applicant's existing relationship (if any) with the local police or sheriff which may impede his/her independence. Does the candidate know of any potential conflict of interest concerning this position that may impede his/her ability to perform justice of the peace duties?

(2) Ability to learn, communicate effectively and make independent decisions.

(3) Willingness to attend courses, i.e. 5 or 6 days basic training and 2 days every second year advanced training.

e. If the administrative judge is satisfied on these points, he or she will submit his/her recommendation to Judicial Council.

f. The administrative judge's recommendation and court manager's request for the appointment, together with the application, are submitted to Judicial Council for approval.

g. Applicants for Court Services justice of the peace appointments are not generally interviewed by the Council. If the candidates are approved by Judicial Council they are invited to attend the basic training course. If successful in the course, they are recommended for appointment.

6. Appointment Process for Judicial Case Managers

Judicial case managers (JCMs) are employees of the judiciary who perform case management or judicial scheduling functions. They are required to hold a justice of the peace commission as part of their qualifications for the position. When an applicant becomes a potential candidate for employment as a JCM through a government posting process, the applicant must apply for a JP commission. The application proceeds through the Judicial Council approval process in a fashion similar to that for Court Services justices of the peace described above.

7. Judicial Education

Judges' Education

New judges receive a three to four weeks orientation program consisting of travel to various districts in the province, mentoring by experienced judges and court observations. They are also sent in the first year of appointment to the New Judges' Training Program presented by the Canadian Association of Provincial Court Judges in Quebec as well as to the Newly Appointed Provincial and Territorial Judges Skills Seminar sponsored by the National Judicial Institute. Often new judges are also sent to one other conference on an area of law in which they may lack practice experience.

Thereafter, new judges and other judges are required to attend semi-annual education conferences presented by the BC Association of Provincial Court Judges, and may also request education leave of up to 5 days, and use their professional allowance to attend approved educational conferences relevant to their judicial duties.

These educational conferences are presented by the Association's Education Committee, in the Spring and Fall, and last for two and one-half days each, ending with a Saturday morning session. The topics covered include recent trends in the law, social context training, mediation skills, new legislation and issues of concern to judges and the public.

The sessions in the Spring and Fall of 2004, 2005 and 2006 covered a wide range of topics, some of which are listed below.

Recent topics have included:

- The Globalization of Constitutional Justice
- The International Impact of Canada's Charter: A Response to Professor Weinrib
- You Win. Now What Do I Do?
- What's Happening to Legal Services in British Columbia?
- The Family Panel: Tricks of the Trade
- DNA Presentation
- Judicial Benefits: What Comes With the Job?
- Unconscious Bias - Know Thyself
- Judicial Excellence
    - Judicial Excellence - A View from the Outside
    - Judicial Discipline
    - Controlling the Courtroom - Strategies to Resolve Problems in the Courtroom
    - Media Relations in the Provincial Court
    - The Judges Role in Ensuring Ethical Decision - Making In and Out of the Courtroom
    - Addressing Legal and Judicial Ethics: A Framework for Analysis
    - Ethical Challenges in the Courtroom
    - Ethical Issues in Delivering Judgments and Outside the Courtroom

- The Drug Monster: A Sobering Look at the Problem and our Role in the Solutions
    - The B.C. Drug Scene: Who? What? How Much?
    - Those with Experience - "From Grief to Action"
    - VPD Odd Squad Presentation
    - Therapeutic Jurisprudence
    - Taking Therapeutic Jurisprudence to the Courtroom
    - Judicial Responses: What to Do with All This?
    - Judicial Problem Solving: A Forum
    - Technology based Education for the Canadian Judiciary
    - The Criminal Process Review: "Who Let the Dogs Out?"

Several judges also attend regular French language training each year. These sessions were held in Quebec in January and August 2004, January and August 2005, and January and August 2006.

A number of courses are sponsored by the Office of the Chief Judge and coordinated and presented by judges of the Court and guest presenters. These include mediation refresher courses, and delivery of reasons. Mediation courses were presented on May 2-3, 2006, May 8-9, 2006, November 21-22, 2006 and November 27-28, 2006, and Delivery of Reasons courses were presented in May and September 2005 and January and November, 2006.

As stated, individual judges may use their professional allowance and education leave to attend additional education programs, including out-of-province courses and seminars on topics related to their judicial duties. In the past three years judges have attended courses on the following topics:

- Evidence and Fact Finding
- National Criminal Law Program
- Charter of Rights Workshop
- Managing Successful Settlement Conferences
- National Conference on Court Technology
- Equity and the Courts
- Meaningful Child Participation in BC Family Court Process
- Judicial Dispute Resolution
- Restorative Justice
- Family Law Seminar
- Judgment Writing
- Social Context Training
- Civil Law Seminar
- Restorative Conferencing
- Communication Skills in the Courtroom

The Provincial Court of British Columbia continues to be at the forefront of judicial education for judges in Canada. The continuing success of the Court's education programs is due to the volunteer efforts of the Association's Education Committee and the many judges who participate on a volunteer basis at the conferences. Judges also participate in educational programs, panels and seminars for continuing legal education to assist in educating judges from other courts and provinces, members of the bar, and the public, on a regular basis. Details of the judges' participation in public legal education is contained in the Court's Annual Reports[6].

Judicial Justice of the Peace Education

Judicial justices of the peace are provided with training or orientation specific to their assignments and experience levels upon appointment. Generally this takes the form of observation and on-the-job training, in relation to bail and search warrants, and courses in law and criminal procedure as well as observation, in relation to traffic hearings. Judicial justices of the peace are involved in training to ensure they are able to act in the entire range of matters to which they may be assigned.

The judicial justices of the peace also attend semi-annual education seminars presented by the Judicial Justices Association Education Committee. The committee arranges presentations by JJPs, members of the bar, judges and other guest speakers. In recent years the legal officer to the chief judge has also made a presentation at these conferences dealing with recent legal issues of relevance to JJPs. The topics covered in 2004, 2005 and 2006 were:

- FRA/CFCSA
- A Variety of Evidentiary Issues
- Search Warrants
- Quicklaw Update
- Production Orders/Complaint Process
- Weapons: Offences, Definitions
- Sentencing Principles
- Superannuation

[6] http://www.provincialcourt.bc.ca/

- Expert Evidence/ Accident Reconstruction
- Strategic Planning
- Effective Communication
- Ethics

November 23, 2005 was set as a dedicated day for the JJPs to explore professionalism. The seminar's agenda was "Revisiting our Foundational Values".

Court Services Justice of the Peace Education

The Justices of the Peace who are appointed as Court Services Justices of the Peace receive training through a Basic JP Course prior to their appointment, and then receive ongoing on-the-job training and experience in the conduct of their duties, as well as support in the form of a JP manual issued by the Office of the Chief Judge and available assistance from the legal officer to the chief judge. During the years 2004-2006, six justice of the peace basic training programs were held at the Office of the Chief Judge on September 29 to October 1, 2004, March 15 to 17, 2005, June 14 to 16, 2005, October 5 to 7, 2005, April 24 to 26, 2006, and December 4 to 6, 2006.

Judicial Case Manager Education

The judicial case managers (JCMs) of the Court have an annual conference presented by the Office of the Chief Judge under the supervision of the administrative JCM. Ongoing, on-the-job training and support are also provided by the administrative JCM.

8. Strategic Planning

In 2006 the court completed its strategic plan for 2006-2009. Much of the report dealt with Quality of Justice, which is a subject within the objects of the Council. The Strategic Report will be published in the Annual Report of the Court.

In furtherance of Strategy 4-B of that Strategic Plan, the court concluded its review of the mandate and responsibilities of Judicial Justices of the Peace. The court has determined that the role of the Judicial Justice of the Peace in the criminal justice system should be expanded, particularly with respect to bail. That decision in turn lead to Judicial Council establishing new qualifications for Judicial Justices, as mentioned earlier in the report. It also lead to the voluntary retirement of 13 Judicial Justices.

Council has subsequently advertised for new applicants meeting the new requirements. Applicants are currently being interviewed.

9. Complaints

Under the *Provincial Court Act*, it is the chief judge who has the power and the duty to supervise the judges and justices of the peace, and is required under section 11(2) to examine all complaints respecting judges and justices of the peace. The chief judge must report in writing to the complainant and the judicial officer following an examination.

The *Act* also requires in section 11(3) that the chief judge conduct an investigation respecting the fitness of a judge or justice of the peace to perform his or her duties if the chief judge considers that an investigation is required, or if directed to do so by the Attorney General. The result of an investigation may include corrective action or an order for an inquiry respecting the fitness of the judge or justice to perform their duties.

The specific role of the Judicial Council in respect of public complaints, arises indirectly in reference to the Council's statutory object of improving the quality of judicial service, although the statute contemplates the possibility – in the event the Chief Judge or the Attorney General ordered that there be an inquiry into the fitness for office of a judicial officer - that the judicial officer may elect to have the Judicial Council act as the tribunal at that inquiry (the alternative tribunal is a single justice of the Supreme Court).

As chair of the Judicial Council, the chief judge reports to the Judicial Council from time to time regarding certain complaints as they bear upon the Council's interest in the overall quality of judicial service, but the Judicial Council is not engaged in the process relating to complaints. In previous Annual Reports of the Judicial Council there has been included a summary of the outcome of all complaints. Having regard to the actual role of the Council, henceforth such summaries will be published by the Chief Judge on behalf of the Court in the Court's Annual Report.

10. Public Access to the Judicial Council

Any member of the public who has a question she or he wishes to direct to the Chief Judge as Chair of the Judicial Council, or to the Judicial Council as a whole, whether arising from this Report, or for any other reason, may do so in writing directed to the Judicial Council of the Provincial Court of British Columbia, 602, 700 West Georgia Street, Vancouver, British Columbia, V7Y 1E8.

APPENDIX A

Procedure Bylaw

In this bylaw:

(1)"Applicant" means an applicant for appointment as a provincial court judge.

(2)"Council" means the Judicial Council of British Columbia.

(3) "Chair" means the Chief Judge or the alternate presiding member, appointed under the *Provincial Court Act*, where the Chief Judge does not attend a meeting of the Council.

1. The Council is a continuing body notwithstanding any change in membership. The Council may complete any proceedings commenced before a change in membership.

2. The majority of the members of the Council is a quorum. A quorum must be present to hold any meeting, or to pass any resolution.

3. All powers of the Council may be exercised by resolution. An act or proceeding of the Council is valid when authorized or adopted by resolution at a meeting of the Council, provided that:

   (a) A resolution to approve an applicant for appointment will be defeated if any two members vote against approval. A resolution that an applicant not be approved for appointment will succeed if two or more members vote in favour of the resolution. Members present for such resolutions may not abstain.

   (b) A resolution to approve an applicant for interview will succeed if any three members vote in favour of the resolution.

   (c) To pass any other resolution at a meeting of the Council there must be a majority vote of the quorum in favour of the resolution. Each member has one vote but in the event of a tie, the Chair must cast a second and deciding vote.

4. Where any member has a conflict with respect to an applicant, or where there may be a reasonable apprehension of bias in respect of a member, that member shall be disqualified from participating in the interview of the applicant, and shall not participate in any vote with respect to the applicant. Such member shall refrain from involvement in all proceedings or discussions relating to the applicant. Any question regarding whether a member is in a conflict or whether there is a reasonable apprehension of bias shall be resolved by general resolution. If disqualification of a member through conflict or bias reduces the number of members present below a quorum, the interview or vote in respect of the applicant must be adjourned to a time when a quorum is present.

5. The Chair will preside at all meetings of the Council, except when the Chair is not available, in which case, the alternate presiding member must preside.

6. The Council will meet approximately 10 times per year, as scheduled from time to time by the members at a meeting. Notice of the time and place of meetings will be given by the Chair to each member. Any member may attend any meeting of the Council.

7. The Council and its committees may meet in person, via telecommunications or a combination of both. All in person meetings of the Council will be held in Vancouver unless the Council resolves to hold a meeting elsewhere within British Columbia. All in person meetings of committees of the Council will be held in British Columbia at a place resolved by each committee. Notwithstanding the above, all meetings involving interviews of candidates or matters of discipline of judges shall be done in person.

8. Meetings of the Council will be private and confidential, but the Council may invite non-members to attend all or part of a meeting of the Council, except a meeting or a part of a meeting at which candidates are interviewed or votes are taken.

9. The Chair will preserve order at meetings and decide all points of order which may arise, subject to an appeal of any other member present. If an appeal is taken by a member from a decision of the Chair, the question will be decided without debate by a majority vote of the quorum.

10. A bylaw relating to the procedure of the Council may be made or amended by a general resolution passed at a meeting of the Council of which written notice was given in advance to all members.

11. The minutes of all meetings of the Council will be distributed to the members, adopted by resolution at the next meeting of the Council, and then signed by the Chair.

12. Where appropriate, the agenda of meetings of the Council will include:
    (a) minutes of previous Council meetings or committee meetings;
    (b) matters arising out of the minutes;
    (c) communications and inquiries;
    (d) reports from the Chair, or a committee;
    (e) applications for appointment;
    (f) disciplinary matters;
    (g) new business;
    (h) approval of expenses;
    (i) next meeting.

13. The Council may from time to time by general resolution establish standing committees, as required. The chair of each standing committee will be named by the Chief Judge, and the Chair and the members will be approved by the Council.

14. In addition to the standing committees, the Chair, or Council by general resolution, may establish a select committee to consider any matter. The Chair will name the chair of

such committees and the Council may name its members. A select committee may only consider the matter specifically referred to it by the Council or by the Chair.

15. The proceedings of all committees will be subject to the approval of the Council. The minutes of all committee meetings will be circulated to all members of the Council in advance of the Council meeting next following the meeting of the committee.

16. Minutes of a committee and resolutions set out in a committee's minutes will be deemed approved by the Council as of the date of the next Council meeting following their circulation, unless a Council member requests the Chair to call a vote at such meeting. The effective date of a committee resolution must be no earlier than the date of the next Council meeting following the meeting of the committee.

17. Except for judicial members, a member attending a meeting of the Council, a meeting of a committee or other business on behalf of the Council as authorized by the Chair, is entitled to receive payment of an allowance in such amount the Lieutenant Governor in Council considers appropriate, and any travel or out-of-pocket expenses.

18. This bylaw does not apply to the Council acting as a tribunal of inquiry under the *Provincial Court Act*.

19. With respect to procedural issues not covered by this bylaw, *Roberts Rules of Order* shall govern.

Procedure Bylaw adopted this 23rd day of March, 2001 at a meeting of the Judicial Council of British Columbia.